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SUBJECT: INDEPENDENT EDITOR EYNULLA FATULLAYEV SENTENCED TO 30 MONTHS ON CRIMINAL LIBEL CHARGES

Classified By: AMBASSADOR ANNE E. DERSE PER 1.4(B,D)

¶1. (SBU) On April 20, Eynulla Fatullayev, Editor in Chief of the independent Russian-language Realny Azerbaijan newspaper (the highest circulated newsmagazine in the country) and the Azerbaijani-language Gundelik Azerbaijan newspaper, was arrested and sentenced to 30 months' imprisonment on libel charges. Fatullayev has been at the center of several high profile libel suits and was the subject of a criminal prosecution for an article that he allegedly wrote, which speculated that Azerbaijanis, rather than Armenians, may have been responsible for the 1992 events in Khojali (part of the territories currently occupied by Armenian forces). The statements were posted on an Internet forum in 2005.

¶2. (SBU) Separately, on April 21, Yasamal district police opened an investigation on the alleged physical assault committed by unidentified assailants on Gundelik Azerbaijan Editor Uzeyir Jafarov. Jafarov told the press that he was attacked by two "sportsmen" upon leaving the Gundelik Azerbaijan office late the night of April 20. He was hit on the head with a metal object and slapped, and Jafarov maintains that the assailants had knives that they planned to use. He said that the assailants fled when other Gundelik Azerbaijan employees arrived at the scene.

¶3. (C) Prior to the criminal case, Fatullayev had been fined 11,600 USD in a civil court ruling over the same remarks. Fatullayev told PAO that the criminal suit, filed by a woman purporting to represent a group of victims of the Khojali events, does not have a legal basis. According to Fatullayev, the defamatory remarks were posted on an Internet forum, and Azerbaijani law does not regulate Internet postings. In addition, Fatullayev claims that the victims of defamation must be individuals, not a group, and no individuals have made a formal accusation against him. (NOTE: We are researching the legal questions.)

¶4. (C) Many media outlets and political parties have issued statements condemning the verdict as a major blow to freedom of speech. The newly created Committee to Defend the Rights of Eynulla Fatullayev, chaired by Head of the Helsinki Citizens' Assembly Azerbaijan Committee Arzu Abdullayeva, has a membership base of approximately 60 representatives from media outlets, political parties, and NGOs. In an April 23 meeting with the Ambassador, independent Yeni Siyaset bloc leader Eldar Namazov and independent Turan News Agency Chief Mehman Aliyev - both members of the new committee - explained that the organization is urging the international community to speak out on Fatullayev's case and the broader media freedom situation. In addition, they said that the group will continue to hold rallies every Tuesday, as well as a conference and a larger protest in May.

¶5. (C) Turning to broader media freedom issues, Namazov and Aliyev sought the international community's assistance in

bringing the GOAJ and the Press Council together to address the issue of media freedom. They acknowledged the need for the press to develop and adhere to higher standards of professionalism and a Code of Ethics, as the GOAJ must cease the pressure on the media and open the political space for an independent media to develop. They asked the Ambassador for assistance; she pledged to work with the international community in support of such dialogue and increased media freedom in Azerbaijan.

¶6. (SBU) COMMENT: Realny Azerbaijan and Gundelik Azerbaijan newspapers have a reputation for racketeering, but they also been among the most effective media outlets in exposing corruption and malfeasance. Fatullayev's case is another high profile example of pressure against the independent media and the need for the GOAJ to move libel from the criminal code to the civil code. We will continue to work with all levels of GOAJ officials to press the need for this change, and for overall media freedom reforms.

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